

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ISAAC OCAK, an individual,)	
)	
)	No. 2:13-cv-00679-JCC
Plaintiff,)	
)	
vs.)	DEFENDANTS' ANSWER TO THE
)	COMPLAINT AND AFFIRMATIVE
LARRY LONGLEY, an individual, JEFFREY))	DEFENSES
THOMPSON, an individual, SCOTT LUCKIE,))	
an individual, JOSHUA ZIEMER, an))	
individual, and CITY OF SEATTLE, a))	
Washington municipal corporation,))	
)	
Defendants.)	

COMES NOW defendants Larry Longley, an individual, Jeffrey Thompson, an individual, Scott Luckie, an individual, Joshua Ziemer, an individual, and City of Seattle, by and through their attorneys, Peter S. Holmes, Seattle City Attorney, Brian G. Maxey, Assistant City Attorney, Sarah K. Morehead, Assistant City Attorney, and hereby submit their Answer and Affirmative Defenses to Plaintiff's Complaint, and allege as follows:

I. INTRODUCTION, PARTIES, JURISDICTION AND VENUE

1. Defendants deny all allegations in this paragraph.

2. Defendants lack sufficient information to form a belief as to the truth of the allegations set forth in this paragraph, and therefore deny the allegations at this time.

3. Defendants admit the allegations in this paragraph.

4. Defendants admit that the individual officers named herein are employees of the City of Seattle who were, at all relevant times, in uniform. Whether the officers acted under color of law is a legal conclusion, not an averment of fact warranting a response.

5. Defendants deny that venue in King County Superior Court is proper and affirmatively allege that venue is proper in the Western District of Washington. Additionally, defendants admit that this Court has jurisdiction over plaintiff's claims.

6. Defendants admit that plaintiff filed a notice of claim with the City of Seattle on or about December 26, 2013 and that sixty days have elapsed since that date. The allegation about the timeliness of the complaint states a legal conclusion to which no response is required.

II. FACTS

7. Defendants deny the allegations in this paragraph.

8. Defendants deny the allegations in this paragraph.

9. Defendants deny the allegations in this paragraph.

10. Defendants deny the allegations in this paragraph.

11. Defendants deny the allegations in this paragraph.

12. Defendants admit that plaintiff was placed in handcuffs, but deny the remaining allegations in this paragraph.

13. Defendants deny the allegations in this paragraph.

14. Defendants deny the allegations in this paragraph.

15. Defendants deny the allegations in this paragraph.

1 16. Defendants deny the allegations in this paragraph.

2 17. Defendants deny the allegations in this paragraph.

3 18. Defendants deny the allegations in this paragraph.

4 19. Defendants admit that plaintiff was charged with assault and that the charges were
5 dismissed. Defendants lack sufficient information to form a belief as to the truth of the remaining
6 allegations set forth in this paragraph, and therefore deny the allegations at this time.

7 20. Defendants deny the allegations in this paragraph.

8 21. Defendants deny the allegations in this paragraph.

9 22. Defendants deny the allegations in this paragraph.

10 23. Defendants lack sufficient information to form a belief as to the truth of the allegations
11 set forth in this paragraph, and therefore deny the allegations at this time.

12 24. Defendants deny the allegations in this paragraph.

13 25. Defendants lack sufficient information to form a belief as to the truth of the allegations
14 set forth in this paragraph, and therefore deny the allegations at this time.

15 26. Defendants deny the allegations in this paragraph.

16 27. Defendants deny the allegations in this paragraph.

17 28. Defendants deny the allegations in this paragraph.

18 **III. LEGAL CLAIMS**

19 **FIRST CAUSE OF ACTION – ASSAULT AND BATTERY**

20 29. Defendants incorporate all prior paragraphs into this section.

21 30. Defendants deny the allegations in this paragraph.

22 31. Defendants deny the allegations in this paragraph.

23 32. Defendants deny the allegations in this paragraph.

SECOND CAUSE OF ACTION – FALSE ARREST

33. Defendants incorporate all prior paragraphs into this section.

34. Defendants deny the allegations in this paragraph.

35. Defendants deny the allegations in this paragraph.

36. Defendants deny the allegations in this paragraph.

37. Defendants deny the allegations in this paragraph.

THIRD CAUSE OF ACTION – EXCESSIVE FORCE

38. Defendants incorporate all prior paragraphs into this section.

39. Defendants deny the allegations in this paragraph.

40. Defendants deny the allegations in this paragraph.

41. Defendants deny the allegations in this paragraph.

FOURTH CAUSE OF ACTION –

CLAIMS AGAINST INDIVIDUAL DEFENDANTS UNDER 42 U.S.C §1983

42. Defendants incorporate all prior paragraphs into this section.

43. The allegations in this paragraph are conclusions of law, not averments of fact warranting a response.

44. The allegations in this paragraph are conclusions of law, not averments of fact warranting a response.

45. Defendants deny the allegations in this paragraph.

46. Defendants deny the allegations in this paragraph.

47. Defendants deny the allegations in this paragraph.

48. Defendants deny the allegations in this paragraph.

49. Defendants deny the allegations in this paragraph.

50. Defendants deny the allegations in this paragraph.

51. Defendants deny the allegations in this paragraph.

FIFTH CAUSE OF ACTION –

CLAIMS AGAINST THE CITY OF SEATTLE UNDER 42 U.S.C §1983

52. Defendants incorporate all prior paragraphs into this section.

53. Defendants deny the allegations in this paragraph.

54. Defendants deny the allegations in this paragraph.

55. Defendants deny the allegations in this paragraph.

56. Defendants deny the allegations in this paragraph.

57. Defendants admit that the DOJ investigated the Seattle Police Department and made findings, but deny plaintiff's characterization of those finding and all further allegations in this paragraph.

58. Defendants deny the allegations in this paragraph.

59. Defendants deny the allegations in this paragraph.

60. Defendants deny the allegations in this paragraph.

61. Defendants deny the allegations in this paragraph.

62. Defendants deny the allegations in this paragraph.

63. Defendants deny the allegations in this paragraph.

SIXTH CAUSE OF ACTION –

CLAIMS AGAINST THE CITY OF SEATTLE UNDER STATE LAW

64. Defendants incorporate all prior paragraphs into this section.

65. Defendants deny the allegations in this paragraph.

SEVENTH CAUSE OF ACTION – PUNITIVE DAMAGES

66. Defendants incorporate all prior paragraphs into this section.

67. Defendants deny the allegations in this paragraph.

PRAYER FOR RELIEF

Defendants deny that plaintiff is entitled to any of the relief set forth in this section, including subparagraphs 1-4.

IV. AFFIRMATIVE DEFENSES

1. Plaintiff has failed to state a claim upon which relief may be granted.

2. The City, a municipal corporation, is immune from liability for prejudgment interest on tort judgments and is immune from punitive damages.

3. Defendant City has not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of Washington or any political subdivision thereof.

4. At all times relevant to the acts alleged in the complaint, the duties and functions of the City's officials entailed the reasonable exercise of proper and lawful discretion.

5. Plaintiff's state law claims are barred in whole, or in part, by governmental immunity for discretionary, policy-making and/or judgmental functions and decisions.

6. Any injury or property damage alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct and was not the proximate result of any act of the defendants.

8. There was probable cause for plaintiff's detention and arrest.

9. Any force used against plaintiff was reasonable.

10. The individual officers are entitled to qualified immunity.

V. JURY TRIAL DEMAND

1 Defendants respectfully demand a trial by jury of all issues so triable.

2 WHEREFORE, defendants respectfully request that the Complaint be dismissed with
3 prejudice, that they be awarded costs and reasonable attorneys' fees herein, and that they be granted
4 such other and further relief as the Court finds just and equitable.

5 DATED this 14th day of June, 2013.

6 PETER S. HOLMES
Seattle City Attorney

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